

IN THE DISTRICT COURT OF GUAM
TERRITORY OF GUAM
**AMENDED CRIMINAL MINUTES
INITIAL APPEARANCE

FILED

DISTRICT COURT OF GUAM

MAY - 4 2006

MARY L.M. MORAN
CLERK OF COURT

CASE NO. MG-05-00028

DATE: 5/19/2005

TIME: 10:50 a.m.

HON. JOAQUIN V. E. MANIBUSAN, JR., Magistrate Judge, Presiding

Law Clerk: J. HATTORI

Court Recorder: Jamie Phelps

Courtroom Deputy: Leilani Toves Hernandez

Hearing Electronically Recorded - RUN TIME: 10:50:35 - 11:21:56

CSO: J. Lizama & B. Benavente

***** APPEARANCES *****

DEFT: SEAN MICHAEL COLE aka SHAWN COLE

ATTY: CURTIS C. VAN DE VELD

(X) PRESENT (X) CUSTODY () BOND () P.R.

(X) PRESENT () RETAINED () FPD (X) CJA APPOINTED

DEFT: GILBERT JOSE MATTIA

ATTY: LOUIE J. YANZA

(X) PRESENT (X) CUSTODY () BOND () P.R.

(X) PRESENT () RETAINED () FPD (X) CJA APPOINTED

DEFT: JESSICA ROSE MESA

ATTY: JOAQUIN C. ARRIOLA, JR.

(X) PRESENT (X) CUSTODY () BOND () P.R.

(X) PRESENT () RETAINED () FPD (X) CJA APPOINTED

U.S. ATTORNEY: MARIVIC DAVID

AGENT: JOHN DUENAS, B.I.C.E.

U.S. PROBATION: CARLEEN BORJA / JUDY OCAMPO

U.S. MARSHAL: S. LUJAN / F. TAITAGUE

PROCEEDINGS: INITIAL APPEARANCE RE COMPLAINT (SEALED)

() COMPLAINT/INFORMATION/INDICTMENT READ TO DEFENDANT

(X) FINANCIAL AFFIDAVIT REVIEWED AND ACCEPTED:

CURTIS C. VAN DE VELD, APPOINTED TO REPRESENT SEAN MICHAEL COLE aka SHAWN COLE

LOUIE J. YANZA, APPOINTED TO REPRESENT GILBERT JOSE MATTIA

JOAQUIN C. ARRIOLA, JR., APPOINTED TO REPRESENT JESSICA ROSE MESA

() DEFENDANT SWORN AND EXAMINED AGE: _____ HIGH SCHOOL COMPLETED: _____

() DEFENDANT ARRAIGNED ADVISED OF RIGHTS, CHARGES AND PENALTIES

() REMOVAL/IDENTITY HEARING () CONDUCTED () WAIVED () SET FOR: _____ at _____

() WARRANT OF REMOVAL ISSUED

() GOV'T SUMMARIZES THE EVIDENCE () GOV'T SUBMITS TO THE PLEA AGREEMENT

() COURT QUESTIONS DEFENDANT REGARDING HIS PHYSICAL AND MENTAL CONDITION, AND ADVISES DEFENDANT OF THE NATURE AND POSSIBLE CONSEQUENCES OF SAID PLEA

() DEFENDANT WAIVES READING OF () COMPLAINT () INFORMATION () INDICTMENT

(X) PRELIMINARY EXAMINATION FOR DEFENDANT(S) SEAN COLE AND GILBERT MATTIA SET FOR:

MAY 27, 2005 at 10:15 A.M.

(X) PRELIMINARY EXAMINATION FOR DEFENDANT JESSICA ROSE MESA SET FOR:

JUNE 8, 2005 at 1:30 P.M.

(X) DEFENDANT JESSICA ROSE MESA TO BE RELEASED ON BOND (see attached release conditions)

(X) DEFENDANTS SEAN MICHAEL COLE AND GILBERT JOSE MATTIA REMANDED TO THE CUSTODY OF THE U.S. MARSHAL SERVICE FOR () PROCESSING (X) DETENTION

() DETENTION HEARING REQUESTED BY _ GOV'T _ DEFT IS SET FOR: _____ at _____

NOTES:

Defendant's were advised of the charges brought against them and their rights. All attorneys were appointed *nunc pro tunc* to May 18, 2005.

DEFENDANT SEAN MICHAEL COLE:

The Court stated that based on the PreTrial Services Report, the defendant has no ties to the community and should be detained. Mr. Van de Veld argued for his client's release. Government concurred with the PreTrial Services Report. The Court Denied the defendant's release and states its reasons. Accordingly, the defendant was remanded to the custody of U.S. Marhsal Service.

DEFENDANT GILBERT MATTA:

The Court stated that based on the PreTrial Services Report, the defendant has no ties to the community and should be detained. Mr. Yanza argued for his release and also noted that his client resides with the co-defendant. The Government concurred with the Pre-Trial Services Report, however, left it to the Court's discretion regarding release and the stay away order. The Court Denied the defendant's release and stated its reasons. Defendant was remanded to the custody of the U.S. Marshal Service.

DEFENDANT JESSICA ROSE MESA:

The Court stated that based on the PreTrial Services Report, the defendant shall be released with conditions. Mr. Arriola had no objections. The Court Granted the defendant's release with the conditions noted on the report to include the stay away order.

Additional Conditions of Release

Upon finding that release by one of the above methods will not by itself reasonably assure the appearance of the defendant and the safety of other persons and the community.

IT IS FURTHER ORDERED that the release of the defendant is subject to the conditions marked below:

() (6) The defendant is placed in the custody of:

(Name of person or organization) _____
 (Address) _____
 (City and state) _____ (Tel. No.) _____

who agrees (a) to supervise the defendant in accordance with all the conditions of release, (b) to use every effort to assure the appearance of the defendant at all scheduled court proceedings, and (c) to notify the court immediately in the event the defendant violates any conditions of release or disappears.

Signed: _____
 Custodian or Proxy _____ Date _____

() (7) The defendant shall:

(X) (a) report to the US Probation and Pretrial Services Office.

telephone number _____, not later than _____.

() (b) execute a bond or an agreement to forfeit upon failing to appear as required the following sum of money or designated property:

() (c) post with the court the following indicia of ownership of the above-described property, or the following amount or percentage of the above-described

() (d) execute a bail bond with solvent sureties in the amount of \$ _____.

(X) (e) maintain or actively seek employment.

() (f) maintain or commence an education program.

(X) (g) surrender any passport to: _____

(X) (h) obtain no passport.

() (i) abide by the following restrictions on personal association, place of abode, or travel:

remain at a fixed address

(X) (j) avoid all contact, directly or indirectly, with any persons who are or who may become a victim or potential witness in the subject investigation or prosecution, including but not limited to: _____

() (k) undergo medical or psychiatric treatment and/or remain in an institution as follows: _____

() (l) return to custody each (week) day as of _____ o'clock after being released each (week) day as of _____ o'clock for employment, schooling, or the following limited purpose(s):

() (m) maintain residence at a halfway house or community corrections center, as deemed necessary by the pretrial services office or supervising officer.

(X) (n) refrain from possessing a firearm, destructive device, or other dangerous weapons.

() (o) refrain from () any (X) excessive use of alcohol.

(X) (p) refrain from use or unlawful possession of a narcotic drug or other controlled substances defined in 21 U.S.C. § 802, unless prescribed by a licensed medical practitioner.

(X) (q) submit to any method of testing required by the pretrial services office or the supervising officer for determining whether the defendant is using a prohibited substance. Such methods may be used with random frequency and include urine testing, the wearing of a sweat patch, a remote alcohol testing system, and/or any form of prohibited substance screening or testing.

(X) (r) participate in a program of inpatient or outpatient substance abuse therapy and counseling if deemed advisable by the pretrial services office or supervising officer.

() (s) refrain from obstructing or attempting to obstruct or tamper, in any fashion, with the efficiency and accuracy of any prohibited substance testing or electronic monitoring which is (are) required as a condition(s) of release.

() (t) participate in one of the following home confinement program components and abide by all the requirements of the program which () will or () will not include electronic monitoring or other location verification system. You shall pay all or part of the cost of the program based upon your ability to pay as determined by the pretrial services office or supervising officer.

() (i) **Curfew.** You are restricted to your residence every day () from _____ to _____, or () as directed by the pretrial services office or supervising officer; or

() (ii) **Home Detention.** You are restricted to your residence at all times except for employment; education; religious services; medical, substance abuse, or mental health treatment; attorney visits; court appearances; court-ordered obligations; or other activities as pre-approved by the pretrial services office or supervising officer; or

() (iii) **Home Incarceration.** You are restricted to your residence at all times except for medical needs or treatment, religious services, and court appearances pre-approved by the pretrial services office or supervising officer.

(X) (u) report as soon as possible, to the pretrial services office or supervising officer any contact with any law enforcement personnel, including, but not limited to, any arrest, questioning, or traffic stop.

(X) (v) Stay away from ports of entry or exit

() (w) _____

() (x) _____